

Wm. Keith Dozier (OSB 012478)
keith@wkd-law.com
Wm. Keith Dozier, LLC
385 First St., Ste. 215
Lake Oswego, OR 97034
Telephone: (503) 594-0333
Fax: (510) 697-0841

Ben C. Martin (13052400 TX)
bmartin@martinbaughman.com
Laura J. Baughman (00791846 TX)
lbaughman@martinbaughman.com
Martin Baughman, PLLC
3141 Hood Street, Suite 600
Dallas, TX 75219
Telephone: (214) 716-6614
Facsimile: (214) 744-7590

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JUSTIN PETERSON

Plaintiff,

v.

NO. 3:19-CV- 01701-MO

C.R. BARD, INC. AND BARD
PERIPHERAL VASCULAR, INC.,

Defendants.

**AMENDED UNOPPOSED
PLAINTIFF'S MOTION TO FILE
CERTAIN EXPERT REPORTS
UNDER SEAL**

Pursuant to Fed. R. Civ. P. 26(c) and Local Rules 3-7 and 3-8, Plaintiff Justin Peterson respectfully moves for leave to file under seal certain expert reports.

These specific expert reports have been designated by the Bard Defendants as confidential information that is to be protected under the Stipulated Protective Order entered in the multi-district litigation proceeding, *In re Bard IVC Filters Products Liability Litigation*, MDL 2641 (MDL Doc. 269), and thus warranting protection from public disclosure. The Parties agreed that Stipulated Protective Orders entered in the MDL, particularly the Stipulated Protective Order governing the disclosure of proprietary and other confidential information, would be binding in this case. (See Joint Status Report (Doc. 28) and Stipulated Protective Order (Doc. 28-1).)

Accordingly, there is good cause to grant this Motion to File Certain Expert Reports Under Seal.

ARGUMENT AND CITATION TO AUTHORITY

“When a court grants a protective order for information produced during discovery, it already has determined that ‘good cause’ exists to protect this information from being disclosed to the public by balancing the needs for discovery against the need for confidentiality.” *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002). Certain expert reports are subject to the provisions of the Stipulated Protective Order entered in the MDL and agreed to by the parties here and Rule 26.

Good cause to seal these expert reports exists because the Defendants allege these reports contain confidential and proprietary information and Plaintiff is required to seek to protect these expert reports pursuant to the Stipulated Protective Order. Accordingly, the Plaintiff requests that the Court file the following expert reports under seal:

- MDL Expert Report of David Kessler, M.D, dated 09.26.2019 and labeled as

Exhibit A-6

- MDL 1st Supplemental Expert Report of David Kessler, M.D., dated 03.03.2017 and labeled as **Exhibit A-8**
- MDL 2nd Supplemental Expert Report of David Kessler, M.D., dated July 15, 2017 and labeled as **Exhibit A-9**
- MDL Expert Report of Thomas Kinney, M.D., M.S. M.E., Anne Christine Roberts, M.D., and Sanjeeva Kalva, M.D, dated 03.06.2017 and labeled as

Exhibit A-10

- Appendix A to Expert Report of Thomas Kinney, M.D., M.S. M.E., Anne Christine Roberts, M.D., and Sanjeeva Kalva, M.D., labeled as **Exhibit A-10a**
- Expert Report Schedules to Expert Report of Thomas Kinney, M.D., M.S. M.E., Anne Christine Roberts, M.D., and Sanjeeva Kalva, M.D. labeled as **Exhibit A-10b**
- Barraza Action MDL Expert Report of Rebecca Betensky, M.D., dated 01.27.2017 and labeled as **Exhibit A-11**
- MDL Supplemental Expert Report of Rebecca Betensky, M.D., dated 03.03.2017 and labeled as **Exhibit A-12**
- MDL Barraza Action Rebuttal Expert Report of Rebecca Betensky, M.D., dated 04.20. 2017 and labeled as **Exhibit A-13.**
- MDL Rebuttal Report to Expert Report of Dr. Donald Thisted, dated May 12, 2017 and labeled as **Exhibit A-14.**

- MDL Expert Report of Robert M. McMeeking PhD, NAE, FREng, FRSE, LFASME, dated 03.02.2017 and labeled as **Exhibit A-15**.
- MDL Supplemental Expert Report of Robert M. McMeeking PhD, NAE, FREng, FRSE, LFASME, dated 04.07.2017 and labeled as **Exhibit A-16**.
- MDL Rebuttal Report of Robert M. McMeeking PhD, NAE, FREng, FRSE, LFASME, dated April 20, 2017 and labeled as **Exhibit A-17**.
- MDL Rebuttal Report of Robert M. McMeeking PhD, NAE, FREng, FRSE, LFASME, dated May 11, 2017 and labeled as **Exhibit A-18**.
- MDL Report on the Bard Inferior Vena Cava Filter Implanted in Mrs. Doris Y. Jones by Robert M. McMeeking PhD, NAE, FREng, FRSE, LFASME, dated 06.09.2017 and labeled as **Exhibit A-19**.
- MDL Assessment of the Structural Integrity of Bard IVC Filters: Recovery, G2, G2-Express and Eclipse Report of Robert O. Ritchie, MA, PhD, ScD, NAE, FREng, FIM, FInstP, dated March 2, 2017 and labeled as **Exhibit A-20**.
- MDL Supplementary Report Assessment of the Structural Integrity of Bard IVC Filters: Meridian and Denali Filters Report of Robert O. Ritchie, MA, PhD, ScD, NAE, FREng, FIM, FInstP, dated April 1, 2017 and labeled as **Exhibit A-21**.
- MDL Assessment of the Structural Integrity of Bard IVC Filters: Recovery, G2, G2-Express and Eclipse Rebuttal to Defendants' Expert Opinions Report of Robert O. Ritchie, MA, PhD, ScD, NAE, FREng, FIM, FInstP, dated April 1, 2017 and labeled as **Exhibit A-22**.
- MDL Expert Report of Susan Parisian, M.D., dated March 3, 2017 and labeled as **Exhibit A-23**.

- Supplemental Expert Report of Susan Parisian, M.D. dated April 7, 2017 and labeled as **Exhibit A-24**.

Date: April 8, 2021

Respectfully submitted,

/s/ Ben C. Martin

Ben C. Martin (13052400 TX)
Laura J. Baughman (00791846 TX)
Thomas William Arbon (01284275 TX)
Kristi Wood (24076784 TX)
Martin Baughman, PLLC
3141 Hood Street
Suite 600
Dallas, TX 75219
Telephone: (214) 716-6614
Facsimile: (214) 744-7590
bmartin@martinbaughman.com
lbaughman@martinbaughman.com
tarbon@martinbaughman.com
kwood@martinbaughman.com

and

/s/ Keith Dozier

Wm. Keith Dozier, Jr., OSB #012478
Of Attorneys for Plaintiffs
Email: keith@wkd-law.com
385 First St., Ste. 215
Lake Oswego, OR 97034
Telephone: 503-594-0333
Fax: 503-697-0841

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on April 8th, 2021, a copy of the foregoing was filed with the Clerk of Court using the CM/ECF system, which will send notification to all counsel of record.

/s/ Ben C. Martin _____

Ben C. Martin

CERTIFICATE OF CONFERENCE

On this 8th day of April 2021, Plaintiff's counsel, has conferred with Defendants' counsel about this motion. Defendants' counsel does not oppose the motion.

/s/ Ben C. Martin _____

Ben C. Martin